

IN THE SUPREME COURT OF IOWA

SUMMIT CARBON  
SOLUTIONS, LLC

Petitioner-Appellant,

v.

IOWA UTILITIES BOARD,

Respondent-Appellee,

and

SIERRA CLUB IOWA CHAPTER  
and OFFICE OF CONSUMER  
ADVOCATE,

Intervenors-Appellees.

Case No. 22–1444

District Court No. CVCV062900

**UNOPPOSED MOTION TO  
EXTEND DEADLINE FOR  
FILING PROOF REPLY BRIEF**

*Current Deadline June 20, 2023*

Appellant Summit Carbon Solutions, LLC (“Summit”) files this unopposed motion to extend its deadline to file its proof brief in this appeal pursuant to Iowa Rules of Appellate Procedure 6.1002 and 6.1003. In support of this motion, Summit states as follows:

1. On September 9, 2022, Summit filed a notice of appeal from a decision of the Iowa District Court in and for Polk County.
2. On April 10, 2023, this Court granted an extension of Summit’s deadline for filing its proof brief and designation of parts to April 20, 2023.
3. On April 20, 2023, Summit filed its proof brief and designation of parts of the appendix.

4. On May 22, 2023, Intervenor-Appellee Office of Consumer Advocate (“OCA”) moved for an extension of its deadline for filing its proof brief and designation of appendix from May 22 to June 5, 2023.

5. On May 23, 2023, this Court granted the motion, thereby extending the deadline to June 5, 2023.

6. Pursuant to Iowa Rule of Appellate Procedure 6.901(1)(c), Summit’s proof reply brief is due 21 days after service of the appellee’s proof brief.

7. Upon the grant of Intervenor-Appellee’s motion to extend its briefing deadline to June 5, 2023, the undersigned attorneys noted the tentative deadline for filing Summit’s proof reply brief would be approximately 21 days thereafter, or June 26, 2023.

8. On May 30, 2023, however, Intervenor-Appellee OCA filed a statement waiving its brief pursuant to Iowa Rule of Appellate Procedure 6.903(3). While the Iowa Rules of Appellate Procedure do not explicitly provide that such a waiver triggers the start of the 21 days allowed for reply, undersigned counsel understand that to be the most likely interpretation in this docket under the circumstances.

9. When OCA waived its brief, docketing staff assisting the undersigned attorneys did not identify that the waiver triggered the start of the

21 days allowed for reply under the rules. Accordingly, the resulting deadline for Summit's proof reply brief, June 20, 2023, was not entered into the undersigned attorneys' docketing system.

10. Undersigned counsel did not discover the omission of the new June 20, 2023 deadline for the filing of Summit's proof reply brief from its docketing system until the evening of Friday, June 16, 2023.

11. Summit therefore respectfully asks for a brief extension of the deadline for filing its proof reply brief from June 20, 2023 to June 26, 2023, to allow its undersigned counsel time to finish preparing its proof reply brief.

12. The requested extension will assist Summit in submitting a reply brief that will provide the most clarity and assistance to the Court; accordingly, without the requested extension, Summit will be prejudiced.

13. The ultimate issue in this case is whether a temporary order protecting information from public disclosure should become permanent; because no party has sought to expedite the appeal or otherwise argued an urgent need for the presently protected information, the requested extension will not prejudice any other party.

14. With or without the extension, briefing will be completed and the case will be ready to be heard prior to the start of the fall adjudicative term, thus the grant of the extension will not prejudice any other party.

15. Summit has conferred with counsel for the other parties, including Intervenor-Appellee Sierra Club Chapter of Iowa, who filed the only brief to which Summit is replying, and represents that no party to this appeal has any objection to the grant of the requested extension to Summit.

16. Summit has not previously requested an extension of the deadline for filing its proof reply brief.

Summit therefore respectfully requests that this Court, or the Clerk or Deputy Clerk of the Supreme Court, extend the deadline for filing its proof reply brief to June 26, 2023.

Respectfully submitted this 19th day of June, 2023.

By: /s/ Kristy Dahl Rogers  
Kristy Dahl Rogers  
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**CERTIFICATE OF SERVICE**

The undersigned certifies the foregoing document was electronically filed with the Clerk of the Supreme Court using the Electronic Document Management System (EDMS) on June 19, 2023, which will send a notice of electronic filing to all registered counsel of record.

*/s/ Sarah McCray*

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Sarah McCray